



FEDERAL MARITIME COMMISSION

[Docket No. 14-13]

Metro Freight Services, Inc. d/b/a Maritime Express Lines – Possible Violations of the Shipping Act

Order of Investigation and Hearing

The Federal Maritime Commission (Commission) deems it appropriate and in the public interest that a proceeding be, and hereby is, instituted pursuant to section 11 of the Shipping Act of 1984 (Shipping Act), 46 U.S.C. 41302, against respondent Metro Freight Services, Inc., a licensed and bonded ocean freight forwarder and non-vessel-operating common carrier (NVOCC), for possible violations of the Commission's regulations at 46 CFR 515.18(c) and 515.42(i) and section 19(e)(3) of the Shipping Act, 46 U.S.C. 40904(c).

Based on information provided to it, the Commission's Bureau of Enforcement makes the following allegations:

STATEMENT OF FACTS CONSTITUTING BASIS OF VIOLATIONS

1. Metro Freight Services, Inc. dba Maritime Express Lines (M.E.L.) (Metro Freight) is a licensed, tariffed and bonded ocean transportation intermediary (OTI), providing service as a freight forwarder and NVOCC (Org. No. 006490).
2. Metro Freight's offices are located at 1225 West St. George Avenue, Linden, New Jersey, 07036.
3. Metro Freight was incorporated in the State of New York in 1985, and is registered with the State of New Jersey as a foreign corporation doing business in that state.
4. Metro Freight holds itself out to do OTI business through its Internet website, www.metroiff.com.
5. Metro Freight holds itself out as an NVOCC through its automated tariff (#006490-001) published by Distribution Publications, Inc at <http://www.dpiusa.com>.
6. Metro Freight maintains an NVOCC bond, No. 570364, in the amount of \$75,000 and a freight forwarder bond, No. W6009, in the amount of \$50,000 with American Alternative Insurance Corporation in Princeton, New Jersey.
7. Through April 2010, OTI licensing records maintained by the Commission's Bureau of Certification and Licensing (BCL) identify Georges T. Samaha as the sole Qualifying Individual (QI) for Metro Freight.
8. On or about February 29, 2012, Metro Freight submitted to the Commission's Bureau of Enforcement (BOE) written responses to an OTI compliance questionnaire, dated February 2, 2012.
9. Metro Freight's February 29, 2012 response identified its QI, Georges Samaha, as deceased.
10. On information and belief, the former QI and owner of Metro Freight, Georges Samaha, passed away on August 6, 2011.

11. Metro Freight's February 29, 2012 response identified Metro Freight as having handled 634 export ocean shipments as an OTI ocean freight forwarder in the 12 months immediately prior.
12. Metro Freight's February 29, 2012 response identified G&M Export Corporation as a shipper of cargo affiliated with Metro Freight.
13. Metro Freight's February 29, 2012 response identified G&M Export's address as 1225 West St. George Avenue, Linden, New Jersey, 07036.
14. Metro Freight's February 29, 2012 response identified G&M Export as sharing office space, expenses and/or personnel with Metro Freight.
15. Metro Freight's February 29, 2012 response identified Paola C. Samaha as the 100% owner of G&M Export.
16. By letter dated March 6, 2012, BOE advised Metro Freight of its obligation to submit an application for a proposed replacement QI. 46 CFR 515.18(c).
17. By follow-up letter to BOE dated March 16, 2012, Metro Freight advised that it had collected freight forwarder compensation on 28 shipments in which G&M Export was the shipper named on the bill of lading issued by the ocean common carrier, United Arab Shipping Company (UASC).
18. On or about May 11, 2012, Metro Freight submitted an application designating Paola C. Samaha as the proposed QI for Metro Freight, replacing Georges Samaha. Mrs. Samaha was identified therein as the President and 100% owner of Metro Freight.
19. In support of its application, Metro Freight submitted a copy of a corporate resolution dated January 3, 2012, designating Paola Samaha as President of Metro Freight to replace the "decedent President, Mr. Georges T. Samaha."
20. On June 26, 2012, Metro Freight was notified by letter that the Commission's Bureau of

Certification and Licensing (BCL) closed its application for failure to demonstrate that the proposed QI, Paola Samaha, met the requirements to demonstrate prior OTI-related work experience.

21. BCL's June 26, 2012 letter notified Metro Freight that it was required to promptly submit another application to replace the QI, and that continued operation could result in civil penalties.
22. BCL receive no response from Metro Freight regarding the letter issued June 26, 2012.
23. Through September 1, 2014, the Commission's Bureau of Certification and Licensing has not approved a replacement QI for Metro Freight.
24. According to records of the New York State Division of Corporations, G&M Export was incorporated in the State of New York in 1990.
25. According to records of the New York State Division of Corporations, G&M Export's address is 1225 West St. George Avenue, Linden, New Jersey, 07036.
26. According to records of the New York State Division of Corporations, Paola C. Samaha is currently the Chairman and CEO of G&M Export.
27. According to records in the Commission's SERVCON database, G&M Export is identified as the shipper party named in service contracts with United Arab Shipping Company (UASC), an ocean common carrier.
28. UASC service contract No. 2009-130 was first executed on or about February 20, 2009 and signed by Georges T. Samaha as President and CEO of G&M Export.
29. In entering into UASC service contract No. 2009-130, G&M Export certified that its shipper status was cargo owner.
30. The term of UASC service contract No. 2009-130 was February 20, 2009 through February 19, 2010. UASC service contract No. 2009-130 was extended by contract amendments through

March 31, 2011.

31. UASC service contract No. 124288 was first executed on or about April 1, 2011 and signed by Paola C. Kamel as President and CEO of G&M Export.
32. In entering into UASC service contract No. 124288, G&M Export certified that its shipper status was cargo owner.
33. The term of UASC service contract No. 124288 was April 1, 2011 through March 31, 2012.
34. UASC service contract No. 187966 was first executed on or about April 17, 2012 and signed by Paola Samaha on behalf of G&M Export.
35. On information and belief, Paola C. Kamel and Paola C. Samaha are the same person.
36. In entering into UASC service contract No. 187996, G&M Export certified that its shipper status was cargo owner.
37. The term of UASC service contract No. 187966 was April 1, 2012 through April 30, 2013. UASC service contract No. 187966 was terminated by Amendment 3, effective February 5, 2013.
38. With respect to the 25 shipments identified in Attachment A, G&M Export was identified as the shipper on the UASC ocean bill of lading.
39. With respect to the 25 shipments identified in Attachment A, Metro Freight invoiced or collected freight forwarder compensation for shipments in which G&M Exports was the shipper.
40. On May 28, 2014, the Commission's New York Area Representative Ron Podlaskowich visited Metro Freight's offices and interviewed staff at the offices of Metro Freight, and confirmed that Metro Freight was still operating as an OTI in the absence of an approved QI.

**THE COMMISSION'S JURISDICTION
AND REQUIREMENTS OF LAW**

41. Each OTI licensee must have and continuously maintain an approved Qualifying Individual having the necessary experience in OTI activities and the necessary character to render OTI services. The Commission's regulations at 46 CFR 515.18 (a)(6) and (c) require that when a corporation has been licensed on the basis of the qualifications of an officer of the company and that individual no longer serves in a full time and active capacity, the licensee must report such change to the Commission within 30 days and within that time period furnish to the Commission the names and detailed intermediary experience of any other active officer who may qualify the licensee.
42. Section 19(e) of the Shipping Act, 46 U.S.C. 40904 states that an ocean freight forwarder may not "receive compensation from a common carrier for a shipment in which the ocean freight forwarder has a direct or indirect beneficial interest." The Commission regulations further specify that a freight forwarder "may not receive compensation from a common carrier with respect to any shipment in which the forwarder has a beneficial interest or with respect to any shipment in which the holding company, subsidiary, affiliate, officer, director, agent or executive of such forwarder has a beneficial interest." 46 CFR 515.42(i).
43. The activities of Metro Freight, identified above, were provided as part of and in connection with transportation by water of cargo between the United States and a foreign country for compensation over which the Commission has jurisdiction.
44. Under 46 U.S.C. 41302(a), the Commission is empowered to investigate any conduct or agreement that the Commission believes may be in violation of the Shipping Act.
45. The Commission may, after notice and opportunity for hearing, issue an order relating to any violation of the Shipping Act, including assessment of a civil penalty. 46 U.S.C. 41304.

46. The Commission may suspend or revoke an OTI license if the Commission finds that the OTI willfully failed to comply with an order or regulation of the Commission. 46 U.S.C. 40903(a).

VIOLATIONS OF THE SHIPPING ACT AND COMMISSION REGULATIONS

47. It is alleged that Metro Freight violated the Commission's regulations at 46 CFR 515.18 (a)(6) and (c) by failing to promptly notify the Commission of the death of its QI and failing to timely seek and obtain approval of a replacement Qualifying Individual.
48. It is alleged that, with respect to the 25 shipments identified in Attachment A, Metro Freight violated section 19(e)(3) of the Shipping Act and the Commission's regulations at 46 CFR 515.42(i), by receiving freight forwarder compensation from a common carrier for shipments in which Metro Freight had a direct or indirect beneficial interest.

ORDER

NOW THEREFORE, IT IS ORDERED, That pursuant to sections 11 and 14 of the Shipping Act, 46 U.S.C. 41302 and 41304, an investigation is instituted to determine: (1) whether Metro Freight Services Inc. violated (a) the Commission's regulations at 46 CFR 515.18(a)(6) and (c) by failing to promptly notify the Commission of the death of its QI and to timely seek and obtain approval of a replacement QI; and (b) section 19(e)(3) of the Shipping Act, 46 U.S.C. 40904(c), and the Commission's regulations at 46 CFR 515.42(i), by receiving freight forwarder compensation for shipments in which the forwarder had a direct or indirect beneficial interest; (2) in the event violations of the Shipping Act or the Commission's regulations are found, whether civil penalties should be assessed against Metro Freight, and in what amount; (3) whether the OTI license of Metro Freight should be suspended or revoked pursuant to section 19 of the Shipping Act; and (4) whether appropriate cease and desist orders should be entered;

IT IS FURTHER ORDERED, That Metro Freight Services, Inc. is designated Respondent in this proceeding;

IT IS FURTHER ORDERED, That the Commission's Bureau of Enforcement is made a party to this proceeding;

IT IS FURTHER ORDERED, That within 25 days from date of publication of this Order in the Federal Register, Respondent must file with the Commission and serve upon the Bureau of Enforcement an Answer to the allegations in this Order, in accordance with the requirements of the Commission's regulations set forth in 46 CFR 502.63(c). Respondent's answer must be verified and admit or deny all allegations in this Order. Allegations not denied shall be deemed admitted;

IT IS FURTHER ORDERED, That this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. This hearing shall include oral testimony and cross-examination in the discretion of the presiding Administrative Law Judge only after consideration has been given by the parties and the presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

IT IS FURTHER ORDERED, That failure of Respondent to timely file an answer to this Order may be deemed to constitute default and authorize the presiding Administrative Law

Judge, without further notice to Respondent, to find the facts to be as alleged and to enter a decision containing appropriate findings, conclusions, and an order;

IT IS FURTHER ORDERED, That other persons having an interest in participating in this proceeding may file motions for leave to intervene in accordance with Rule 68 of the Commission's Rules of Practice and Procedure, 46 CFR 502.68;

IT IS FURTHER ORDERED, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on the parties of record;

IT IS FURTHER ORDERED, That all documents filed by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 2 of the Commission's Rules of Practice and Procedure, 46 CFR 502.2, and shall be served on the parties of record; and

IT IS FURTHER ORDERED, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the initial decision of the Administrative Law Judge shall be issued by September 29, 2015, and the final decision of the Commission shall be issued by March 28, 2016.

By the Commission.

Karen V. Gregory,
Secretary.

Order of Investigation and Hearing

ATTACHMENT A

**Shipments Upon Which Metro Freight Services Inc. Allegedly Obtained Forwarder
Compensation in Violation of Section 19(e) of the Shipping Act**

No.	UASC Ocean Bill of Lading Number	Date of Issue
1	USCQG028534	12/11/2010
2	USCQG027253	12/12/2010
3	USCQG029247	12/23/2010
4	USCQG029603	01/03/2011
5	USCQG030665	01/20/2011
6	USCQG032192	01/27/2011
7	USCQG040363	05/12/2011
8	USCQG041856	05/26/2011
9	USCQG042415	05/26/2011
10	USCQG040722	05/29/2011
11	USCQG043224	06/16/2011
12	USCQG043092	06/23/2011
13	USCQG044329	06/23/2011
14	USCQG043103	06/30/2011
15	USCQG044899	06/30/2011
16	USCQG043090	06/30/2011
17	USCQG043105	07/07/2011
18	USCQG046169	07/14/2011
19	USCQG045558	07/14/2001
20	USCQG048972	08/22/2011
21	USCQG049349	08/25/2011
22	USCQG053301	10/08/2011
23	USCQG053172	10/15/2011
24	USCQG057132	11/17/2011
25	USCQG060236	12/27/2011